

***United States Court of Appeals
for the Second Circuit***



AMICUS BRIEF

75-4266

**United States Court of Appeals
FOR THE SECOND CIRCUIT**

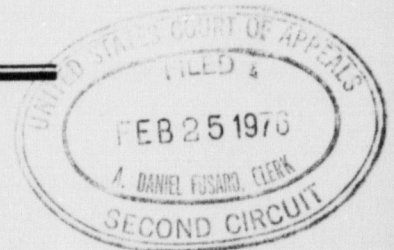
INTERNATIONAL LONGSHOREMEN'S ASSOCIATION, AFL-CIO
and NEW YORK SHIPPING ASSOCIATION, INC.,
Petitioners,
v.
NATIONAL LABOR RELATIONS BOARD,
Respondent.

ON PETITION TO REVIEW AND SET ASIDE AN ORDER OF THE
NATIONAL LABOR RELATIONS BOARD

**BRIEF AMICUS CURIAE OF LOCAL 707,
INTERNATIONAL BROTHERHOOD OF TEAMSTERS**

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UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

-----X
INTERNATIONAL LONGSHOREMEN'S ASSOCIATION, :
AFL-CIO and NEW YORK SHIPPING ASSOCIATION, :
INC., :

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BRIEF AMICUS CURIAE OF
LOCAL 707, INTERNATIONAL
BROTHERHOOD OF TEAMSTERS

Preliminary Statement

This brief amicus curiae is submitted by Highway and Local Motor Freight Drivers, Dockmen and Helpers Local Union No. 707, affiliated with the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America ("Local 707") in opposition to the petition of the International Longshoremen's Association, AFL-CIO ("ILA") and the New York State Shipping Association, Inc. ("NYSA") to review and set aside an Order of the National Labor Relations Board (the "Board"), and in support of the

cross-application of the Board for enforcement of its Order.

Local 707 has a vital interest in the outcome of this case: members of Local 707 who are employees of Twin Express, Inc., one of the two charging parties below, will be profoundly affected by the determination of this appeal.

Truck Drivers Local Union No. 807, affiliated with the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America ("Local 807") and Local 707 represent employees of Consolidated Express, Inc. ("Consolidated") and Twin Express, Inc. ("Twin"), the charging parties in the proceedings before the Board herein.

Consolidated and Twin are non-vessel operating common carriers or "consolidators" in the New York to Puerto Rico trade. Each receives less than container-size cargoes, consolidates them into large metal containers and delivers the containers to steamship company piers where they are loaded onto Puerto-Rico bound ships. Containerized cargoes from Puerto Rico are delivered from the piers to the consolidators premises away from the waterfront where the smaller items in each container are separated for delivery.

Local 807 represents employees of Consolidated engaged in the stripping, stuffing and delivery work in dispute in the proceedings before the Board. Prior to August, 1973, Local 807 represented employees of U.S. Trucking Co. who previously performed this work for Consolidated. Local 807 also represents the employees of independent trucking companies utilized by Twin to deliver containers to the piers.

Local 707 has represented employees of Twin engaged in similar consolidation work since September, 1970.

Local 807 was permitted to intervene in the proceedings before Administrative Law Judge Arnold Ordman and before the Board. As an intervenor, Local 807 submitted affidavits in support of its position to the Administrative Law Judge, and later submitted a brief to the Board in support of exceptions to the decision and recommended order of the Administrative Law Judge.

ARGUMENT

LOCAL 707 SUPPORTS THE POSITION
OF INTERVENOR LOCAL 807 HEREIN
AS IT DID IN THE PROCEEDINGS
BEFORE THE BOARD

Local 707 supports the position of Local 807 herein with respect to the performance of the consolidation work in dispute here by Teamsters. The effect of this Court's determination will be virtually identical for members of

Local 707 employed by Twin and members of Local 807 employed by Consolidated.

In its brief (as a respondent) to the Board in support of the decision and recommended order of the Administrative Law Judge, Petitioner ILA stated that:

"**Interestingly enough, Local 707 has not taken the duplicitous posture of its sister Local 807. It continues to abide by the historical understandings between IBT and ILA. (See A(6) and (7) supra." [ILA Brief p. 21 n. 2].

The ILA's allegations are erroneous and misleading. The "posture" of Local 807 in these proceedings is not in any sense "duplicitous". Moreover, the implication that Local 707 does not support the position of Local 807 is incorrect. Local 707 has supported, and reaffirms its support for, the position of Local 807 with respect to the performance of the work in dispute.

As stated by counsel for Local 707 on behalf of Local 707 in a letter to the Board dated May 14, 1975:

"To the extent that historical understandings between the Teamsters and the ILA may be relevant, it is the position of Local 707 that such understandings support the performance of the work in question by Teamsters, and Local 707 supports the position of Local 807 in these cases."

THE ORDER OF THE BOARD
HEREIN SHOULD BE ENFORCED

The Order of the Board herein should be enforced, and the decision upon which the Order is based affirmed in all respects.

As the decision of the Board correctly states, the demands of the ILA in its agreements with NYSA "could only be met if the work traditionally performed off the pier by employees outside the longshoremen unit [by employees of Local 807 and Local 707 employed by Consolidated and Twin] were taken over and performed at the pier by long-shoremen represented by ILA."

This finding, together with the Board's recognition that the precise work in controversy "is the LCL and LTS Container work performed by Consolidated and Twin at their own off-pier premises," and that "the on-pier stripping and stuffing work performed by longshoremen as an incident of loading and unloading ships does not embrace the work traditionally performed by Consolidated and Twin at their own off-pier premises", are good and sufficient grounds for the findings that Petitioners ILA and NYSA violated Section 8(e) of the National Labor Relations Act, and that Petitioner ILA also violated Section 8(b)(4)(ii)(B) of the Act.

Local 707 supports the decision of the Board and enforcement of its Order herein.

CONCLUSION

The petition of the ILA and the NYSA to review and set aside the Order of the Board herein should be denied, and the cross-application of the Board for enforcement of the Order should be granted in all respects.

DATED: New York, New York
February 23, 1976

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this 23rd day of February, 1976, I served, by first class United States mail, postage prepaid, copies of the Motion for Leave to File Brief Amicus Curiae and Brief Amicus Curiae on each of the following:

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